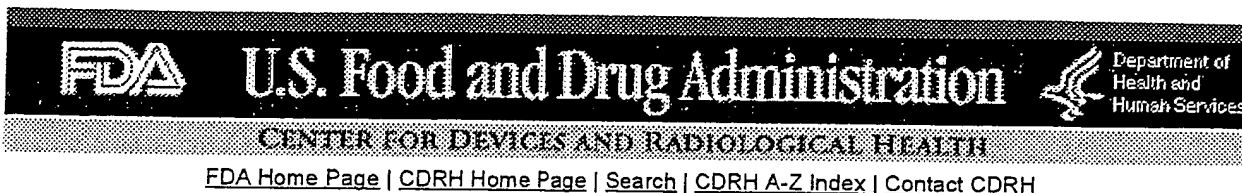


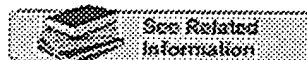
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TITLE 21--FOOD AND DRUGS
 CHAPTER I--FOOD AND DRUG ADMINISTRATION
 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 SUBCHAPTER H - MEDICAL DEVICES

PART 812 -- INVESTIGATIONAL DEVICE EXEMPTIONS

Subpart A -- General Provisions

Sec. 812.3 Definitions.

(a) Act means the Federal Food, Drug, and Cosmetic Act (sections 201-901, 52 Stat. 1040 et seq., as amended (21 U.S.C. 301-392)).

(b) Custom device means a device that:

(1) Necessarily deviates from devices generally available or from an applicable performance standard or premarket approval requirement in order to comply with the order of an individual physician or dentist;

(2) Is not generally available to, or generally used by, other physicians or dentists;

(3) Is not generally available in finished form for purchase or for dispensing upon prescription;

(4) Is not offered for commercial distribution through labeling or advertising; and

(5) Is intended for use by an individual patient named in the order of a physician or dentist, and is to be made in a specific form for that patient, or is intended to meet the special needs of the physician or dentist in the course of professional practice.

(c) FDA means the Food and Drug Administration.

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 Amendment dated Sept 29, 2005
 Office Action dated July 13, 2005
 Exhibit 6

(d) *Implant* means a device that is placed into a surgically or naturally formed cavity of the human body if it is intended to remain there for a period of 30 days or more. FDA may, in order to protect public health, determine that devices placed in subjects for shorter periods are also "implants" for purposes of this part.

(e) *Institution* means a person, other than an individual, who engages in the conduct of research on subjects or in the delivery of medical services to individuals as a primary activity or as an adjunct to providing residential or custodial care to humans. The term includes, for example, a hospital, retirement home, confinement facility, academic establishment, and device manufacturer. The term has the same meaning as "facility" in section 520(g) of the act.

(f) *Institutional review board (IRB)* means any board, committee, or other group formally designated by an institution to review biomedical research involving subjects and established, operated, and functioning in conformance with part 56. The term has the same meaning as "institutional review committee" in section 520(g) of the act.

(g) *Investigational device* means a device, including a transitional device, that is the object of an investigation.

(h) *Investigation* means a clinical investigation or research involving one or more subjects to determine the safety or effectiveness of a device.

(i) *Investigator* means an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject, or, in the event of an investigation conducted by a team of individuals, is the responsible leader of that team.

(j) *Monitor*, when used as a noun, means an individual designated by a sponsor or contract research organization to oversee the progress of an investigation. The monitor may be an employee of a sponsor or a consultant to the sponsor, or an employee of or consultant to a contract research organization. *Monitor*, when used as a verb, means to oversee an investigation.

(k) *Noninvasive*, when applied to a diagnostic device or procedure, means one that does not by design or intention: (1) Penetrate or pierce the skin or mucous membranes of the body, the ocular cavity, or the urethra, or (2) enter the ear beyond the external auditory canal, the nose beyond the nares, the mouth beyond the pharynx, the anal canal beyond the rectum, or the vagina beyond the cervical os. For purposes of this part, blood sampling that involves simple venipuncture is considered noninvasive, and the use of surplus samples of body fluids or tissues that are left over from samples taken for noninvestigational purposes is also considered noninvasive.

(l) *Person* includes any individual, partnership, corporation, association, scientific or academic establishment, Government agency or organizational unit of a Government agency, and any other legal entity.

(m) *Significant risk device* means an investigational device that: